

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

April 13, 2005

IN RE:

**PETITION OF CITIZENS TELECOMMUNICATIONS
COMPANY OF TENNESSEE, LLC FOR EXEMPTION
UNDER TENN. CODE ANN. § 65-5-208(c)**

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**DOCKET NO.
03-00211**

**ORDER GRANTING JOINT MOTION REGARDING TESTIMONY AT THE
HEARING AND ESTABLISHING A BRIEFING SCHEDULE**

This matter came before the Hearing Officer upon the *Joint Motion Regarding Testimony at the Hearing* ("Joint Motion") filed by Ben Lomand Communications, Inc. ("Ben Lomand") and Citizens Telecommunications Company of Tennessee, LLC ("Citizens") on April 4, 2005.

BACKGROUND

On March 19, 2003, Citizens Telecommunications Company of Tennessee, LLC ("Citizens") filed a *Petition for Exemption Under T.C.A. § 65-5-208(c)* ("Petition for Exemption") seeking to exempt Citizens' rates for tariffed services offered in McMinnville and Sparta, Tennessee from the price floor set forth in Tenn. Code Ann. § 65-5-208(c).¹ On April 10, 2003, Ben Lomand Communications, Inc. ("Ben Lomand") filed its *Petition to Intervene and/or Response and Motion to Dismiss of Ben Lomand Communications, Inc.* ("Petition to Intervene"). Citizens filed the *Response of Citizens Telecommunications Company of Tennessee, LLC to Motion Filed by Ben Lomand Communications, Inc. to Intervene and/or Dismiss the Petition for Exemption under T.C.A. § 65-5-208(c)* ("Response") on May 8, 2003, and Ben Lomand subsequently filed *Ben Lomand Communications, Inc.'s Motion for Leave to File a Reply to*

¹ This statute is now codified at Tenn. Code Ann. § 65-5-108(c) (2004).

Citizens' Response ("Motion for Leave to File a Reply") on May 12, 2003.

During a regularly scheduled Authority Conference held on July 7, 2003, the voting panel assigned to this docket voted unanimously to hold this proceeding in abeyance pending the resolution of TRA Docket No. 02-01221, in which Ben Lomand filed a complaint against Citizens Telecommunications Company of Tennessee, LLC d/b/a Frontier Communications of Tennessee and in which similar issues were involved.² On May 25, 2004, Ben Lomand filed a motion to withdraw its complaint against Citizens. The Hearing Officer in TRA Docket No. 02-01221 approved the withdrawal and dismissed the complaint with prejudice on June 2, 2004.³

On September 15, 2004, Citizens filed the *Petitioner's Motion to Revive Docket, Appoint Hearing Officer and Schedule a Status Conference* in this docket. During the September 27, 2004 Authority Conference, the panel voted unanimously to reactivate the docket, convene a contested case to consider Citizens' *Petition for Exemption*, grant Ben Lomand's *Petition to Intervene*, deny Ben Lomand's motion to dismiss advocated in its *Petition to Intervene*, deny Ben Lomand's *Motion for Leave to File a Reply*, appoint a Hearing Officer to hear preliminary matters prior to the hearing on the merits of the *Petition for Exemption* and to set a procedural schedule to completion.⁴

² See *Order Holding Docket in Abeyance* (October 21, 2003), *In re Complaint of Ben Lomand Communications, Inc Against Citizens Communications Company of Tennessee, LLC d/b/a Frontier Communications of Tennessee*, Docket No 02-01221, *Complaint* (November 12, 2003)

³ See *In re Complaint of Ben Lomand Communications, Inc Against Citizens Communications Company of Tennessee, LLC d/b/a Frontier Communications of Tennessee*, Docket No 02-01221, *Order Granting Motion of Ben Lomand Communications, Inc for Approval of Withdrawal of Complaint and Dismissal with Prejudice* (June 2, 2004)

⁴ See Transcript of Authority Conference, pp 32-33 (September 27, 2004)

MARCH 24, 2005 STATUS CONFERENCE

At a status conference held on March 24, 2005, the parties indicated to the Hearing Officer their desire to waive cross-examination of witnesses and to proceed in this docket with the filing of briefs and with the presentation of oral arguments before the assigned voting panel. As a result, the Hearing Officer established a schedule for the filing of briefs as follows:

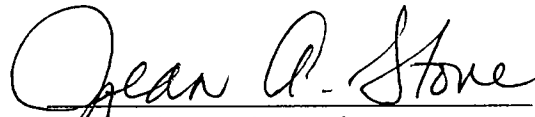
May 6, 2005	Initial briefs shall be filed no later than 2:00 p.m.
May 27, 2005	Reply briefs shall be filed no later than 2:00 p m

In the *Joint Motion*, the parties request the waiver of live testimony and further request that the pre-filed testimony and the discovery filed in the docket be made part of the record. The Hearing Officer finds that waiver of live testimony, the entry of the pre-filed testimony and discovery filed in this docket into the record and the suggested procedure for the filing of briefs and oral arguments before the voting panel will result in an expeditious resolution of the issues in this docket by the voting panel. Therefore, the Hearing Officer finds that the *Joint Motion* is well taken and should be granted. The Hearing Officer further finds that a briefing schedule shall be established as previously indicated. A date for the presentation of oral arguments will be established at the discretion of the voting panel.

IT IS THEREFORE ORDERED THAT:

1. The *Joint Motion* is hereby granted and the parties' waiver of a live hearing with the cross-examination of witnesses is accepted;
2. Briefs shall be filed on the dates indicated herein;
3. All pre-filed testimony and discovery filed in this docket are incorporated into the evidentiary record of this docket; and

4. A date for oral arguments before the voting panel assigned to this docket will be established at the discretion of the voting panel and a separate notice or order establishing that date will be issued.


Jean A. Stone, Counsel
as Hearing Officer